

## **REMARKS**

This responds to the Final Office Action mailed on December 17, 2008.

Claims 1, 12, 15, 16, and 26 are amended, claims 4-5 are canceled, and no claims are added; as a result, claims 1-3, 6-8, and 12-27 are now pending in this application. Support for amendments can be found in the specification at least at [0035], [0039], Figure 4 and the associated description.

### **§ 101 Rejection of the Claims**

Claims 12-14 were rejected under 35 U.S.C. § 101 because the claimed invention is directed to non-statutory subject matter. Claim 12 is amended to recite tangible components, such as a buffer, a database, and a database search engine. It is submitted that the rejection has been overcome and it is respectfully requested that the rejection be withdrawn.

### **§ 103 Rejection of the Claims**

Claims 1-3, 6-8, 12-27 were rejected under 35 U.S.C. § 103(a) as being obvious over Cano et al. (“Robust Sound Modeling for Song Detection in Broadcast Audio,”) in view of Wang et al. (U.S. 6,990,453).

Claims 4 and 5 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Cano et al. (IDS filed 4/13/2006, “Robust Sound Modeling for Song Detection in Broadcast Audio,” and further in view of Wang et al. (U.S. 6,990,453) and in view of Burgess et al. (7,082,394). Claims 4 and 5 are cancelled and thus the rejection is now moot.

Claim 1 is amended to include the features of claims 4 and 5. By articulating a separate rejection of claims 4 and 5 in view of the combination of Cano, Wang, and Burgess, the Final Office Action effectively admitted that the combination of Cano and Wang fails to disclose or suggest the features of claims 4 and 5 that are now incorporated into claim 1 as amended.

Burges is related to noise-robust feature extraction. (Burges, Title.) The audio fingerprinting system described in Burgess may use a single fingerprint per audio clip for

identification or, alternatively, two fingerprints: the initial one, and a 'confirmatory' fingerprint, right after the initial one. The use of the second fingerprint in addition to the first fingerprint, explains Burges, allows a threshold for acceptance to be lowered that, in turn, serves to reduce a false negative rate. (Burges, 5: 37.) While Burgess suggests using a lower threshold when two fingerprints from the same audio clip are used for identification of the clip (as compared to the threshold used when a single fingerprint from an audio clip is used for identification), there is no hint in Burgess that distinct thresholds are used for determining acceptance of the initial and the confirmatory fingerprints in the same audio clip. This approach is distinct and in contrast with a method that uses two different thresholds to match two fingerprint blocks representing respective parts of an information signal, wherein "said second threshold being different from said first threshold" as recited in claim 1 as amended.

Furthermore, in explaining the use of a threshold for identifying a stream of audio, Burges refers to evaluating a computed Euclidean distance between the features of a test signal and the features of the known data based on a pre-determined threshold. (Burges, 18, 58-63.) This approach is different from a method that utilizes a threshold to evaluate "a number of differences between the first fingerprint block and the matching fingerprint block," as recited in claim 1 as amended.

Thus, Burgess, whether considered separately or in combination with Cano and Wang, fails to disclose or suggest a method wherein "a match in said finding is deemed to have occurred if a number of differences between the first fingerprint block and the matching fingerprint block in said database is below a first threshold, and a match in said determining is deemed to have occurred if a number of differences between the further fingerprint block and the corresponding fingerprint block is below a second threshold, said second threshold being different from said first threshold." Thus, claim 1 and its dependent claims are patentable in view of Cano/Wang/Burges combination and should be allowed.

Claims 12, 15, 16, and 26 are amended to recite utilizing different thresholds to match two fingerprint blocks associated with an information signal. Thus, claims 12, 15, 16, and 26 and their respective dependent claims are patentable in view of Cano/Wang/Burges combination and should be allowed for at least the reasons articulated with respect to claim 1.

## **CONCLUSION**

Applicant respectfully submits that the claims are in condition for allowance, and notification to that effect is earnestly requested. The Examiner is invited to telephone the undersigned at (408) 278-4052 to facilitate prosecution of this application.

If necessary, please charge any additional fees or deficiencies, or credit any overpayments to Deposit Account No. 19-0743.

Respectfully submitted,

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By \_\_\_\_\_



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**CERTIFICATE UNDER 37 CFR 1.8:** The undersigned hereby certifies that this correspondence is being filed using the USPTO's electronic filing system EFS-Web, and is addressed to: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on February 16, 2009.

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